

REMARKS

The Examiner will note that Claims 1-5 and 9-11 have been cancelled without prejudice or disclaimer. Claims 6-8 remain in the application and Claim 12 has been amended to depend from any one of Claims 6, 7, or 8.

Claims 6 and 7 have been re-written in independent form including all the limitations of Claim 1. Claims 12/6 and 12/7 are equivalent to Claims 6 and 7, respectively, as they were dependent from Claim 2.

Furthermore, Claim 6 has been amended to indicate that the potentising agent is a natural, distilled fruit alcohol containing the amine in the claimed amount. Claim 7 indicates that the potentising agent is a fruit alcohol containing the amine in the claimed amount. Claim 8 is drawn to the embodiment where the fruit alcohol is derived from blackthorn.

No new matter has been introduced.

The Examiner rejected the claims under 35 U.S.C. § 112, second paragraph, as being indefinite. According to the Examiner, Claims 6 and 7 call for distilled alcohol and it is unclear how alcohol can add amino acids (the Examiner's comments *vis-à-vis* Claims 9-11 are moot). This rejection is respectfully traversed.

First, it is noted that Claim 7 does not call for the alcohol to be distilled. Then it is pointed out that the claims do not say that the alcohol *adds* the amino acid but, rather, that it *contains* the amino acid. Although Claim 6 calls for the alcohol to be distilled, that does not mean that it remains absolutely pure after

distillation. It is well-known, for example, that whisky is primarily distilled alcohol but a number of impurities are distilled with the alcohol and it is these impurities that give the whisky its flavor and character.

It is also well-known that impurities “contaminate” various liquids like water or alcohol from the air. A copy of an abstract of an article by Dr. Edwin Scheller, entitled, “Austausch von Aminosäuren und Proteinen zwischen Pflanzen und Böden über die erdnahen Luftsichten” [“Exchange of amino acids and proteins between plants and soils through the air”], is enclosed. The abstract discusses the fact that “a cycle of amino acids and proteins” exists between soils, plants and the atmosphere.

It is also pointed out that the principle of contamination by air-borne particles has been accepted in conventional chemistry. *See, Smithkline Beecham Corp. v. Apotex Corp.*, 70 USPQ2d 1737, 1740 (Fed. Cir. 2004) (“the general environment becomes ‘seeded’ with crystals of the new polymorph”).

Considering the foregoing, the Examiner is respectfully requested to withdraw the rejection.

The Examiner rejected Claims 6-8 (the rejections of other claims is moot) under 35 U.S.C. § 103(a) as being unpatentable over Nelson et al. The Examiner’s position is that the disclosure by Nelson et al. of a carrier solution containing alcohol, water, seawater, brain hormone, and biologically active enzymes renders obvious the use of alcohol derived from fruit. This rejection is respectfully traversed.

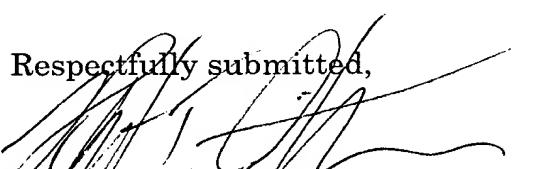
Nelson et al. used pure water and, as is customary in homeopathic medicine, used pure alcohol. On the other hand, the instant claims call for alcohol derived from fruit. As pointed out above, it is well-known that alcohol distilled from fruit or grain is not at all pure. Thus, Nelson et al. do not render obvious the use of alcohol derived from fruit. The Examiner is, therefore, respectfully requested to withdraw this rejection.

Since all the claims are clearly in condition for allowance and distinguish over the prior art of record, whether taken singly or in combination, an early Notice of Allowance is in order and the same is most earnestly solicited.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #010562.50345).

Respectfully submitted,



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